

REMARKS

The Official Action mailed December 1, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on June 9, 2006; September 26, 2008; and July 30, 2009.

Claims 1-38 are pending in the present application, of which claims 1, 2, 4, 5 and 7 are independent. Claims 1, 2, 4 and 5 have been amended to better recite the features of the present invention. The Applicant appreciates the allowance of claims 7, 16, 17, 22-24, 28, 37 and 38. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 1-6, 8-15, 18-21, 25 and 29-36 as anticipated by U.S. Patent No. 6,717,358 to Liao. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended. Paragraph 4 of the Official Action rejects dependent claims 26 and 27 as obvious based on Liao. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or

references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).


The prior art, either alone or in combination, does not teach, either explicitly or inherently, or suggest all the features of the independent claims, as amended. In the "Response to Arguments" section, the Official Action asserts that "the limitation 'the first layer is in contact with the first electrode' as claimed does not exclude the first layer is in electrical contact with the first electrode" (pages 5-6, Paper No. 20091128; emphasis in original). In response and in order to clarify the present invention, claims 1, 2, 4 and 5 have been amended to recite that a first layer is physically in contact with the first electrode. The Applicant respectfully submits that Liao does not teach, either explicitly or inherently, or suggest the above-referenced features of the present invention.

Since Liao does not teach, either explicitly or inherently, or suggest the above-referenced features of the present invention, anticipation and obviousness rejections cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103 are in order and respectfully requested.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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